

108TH CONGRESS  
2D SESSION

# S. 2754

To amend the Social Security Act to protect social security cost-of-living adjustments (COLA).

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## IN THE SENATE OF THE UNITED STATES

JULY 22, 2004

Mr. DASCHLE (for himself, Mr. REED, Mrs. MURRAY, Mr. JOHNSON, Ms. MIKULSKI, Ms. CANTWELL, Ms. STABENOW, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Social Security Act to protect social security cost-of-living adjustments (COLA).

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Social Security COLA  
5       Protection Act of 2004”.

1 **SEC. 2. PROTECTION OF SOCIAL SECURITY COLA IN-**  
 2 **CREASES AGAINST EXCESSIVE MEDICARE**  
 3 **PREMIUM INCREASES.**

4 (a) APPLICATION TO PART B PREMIUMS.—Section  
 5 1839(f) of the Social Security Act (42 U.S.C. 1395r(f))  
 6 is amended—

7 (1) by striking “(f) For any calendar year after  
 8 1988” and inserting “(f)(1) For any calendar year  
 9 after 1988 and before 2005”; and

10 (2) by adding at the end the following new  
 11 paragraph:

12 “(2) For any calendar year (beginning with 2005),  
 13 if an individual is entitled to monthly benefits under sec-  
 14 tion 202 or 223 or to a monthly annuity under section  
 15 3(a), 4(a), or 4(f) of the Railroad Retirement Act of 1974  
 16 for November and December of the preceding year, if the  
 17 monthly premium of the individual under this section for  
 18 December of the preceding year and for January of the  
 19 year involved is deducted from those benefits under section  
 20 1840(a)(1) or section 1840(b)(1), and if the amount of  
 21 the individual’s premium is not adjusted for January of  
 22 the year involved under subsection (i), the monthly pre-  
 23 mium otherwise determined under this section for the indi-  
 24 vidual for that year shall not be increased pursuant to sub-  
 25 section (a)(3) to an amount that exceeds 25 percent of

1 the amount of the increase in such monthly benefits for  
 2 that individual attributable to section 215(i).”.

3 (b) APPLICATION TO PART D PREMIUMS.—

4 (1) IN GENERAL.—Section 1860D–13(a)(1) of  
 5 such Act (42 U.S.C. 1395ww–113(a)(1)) is amend-  
 6 ed—

7 (A) in subparagraph (F), by striking “(D)  
 8 and (E),” and inserting “(D), (E), and (F),”;

9 (B) by redesignating subparagraph (F) as  
 10 subparagraph (G); and

11 (C) by inserting after subparagraph (E)  
 12 the following new subparagraph:

13 “(F) PROTECTION OF SOCIAL SECURITY  
 14 COLA INCREASE.—For any calendar year, if an  
 15 individual is entitled to monthly benefits under  
 16 section 202 or 223 or to a monthly annuity  
 17 under section 3(a), 4(a), or 4(f) of the Railroad  
 18 Retirement Act of 1974 for November and De-  
 19 cember of the preceding year and was enrolled  
 20 under a PDP plan or MA–PD plan for such  
 21 months, the base beneficiary premium otherwise  
 22 applied under this paragraph for the individual  
 23 for months in that year shall be decreased by  
 24 the amount (if any) by which the sum of the  
 25 amounts described in the following clauses (i)

and (ii) exceeds 25 percent of the amount of the increase in such monthly benefits for that individual attributable to section 215(i):

“(i) PART D PREMIUM INCREASE FACTOR.—

“(I) IN GENERAL.—Except as provided in this clause, the amount of the increase (if any) in the adjusted national average monthly bid amount (as determined under subparagraph (B)(iii)) for a month in the year over such amount for a month in the preceding year.

“(II) NO APPLICATION TO FULL PREMIUM SUBSIDY INDIVIDUALS.—In the case of an individual enrolled for a premium subsidy under section 1860D–14(a)(1), zero.

“(III) SPECIAL RULE FOR PARTIAL PREMIUM SUBSIDY INDIVIDUALS.—In the case of an individual enrolled for a premium subsidy under section 1860D–14(a)(2), a percent of the increase described in subclause (I) equal to 100 percent minus the per-

1 cent applied based on the linear scale  
 2 under such section.

3 “(ii) PART B PREMIUM INCREASE  
 4 FACTOR.—If the individual is enrolled for  
 5 such months under part B—

6 “(I) IN GENERAL.—Except as  
 7 provided in subclause (II), the amount  
 8 of the annual increase in premium ef-  
 9 fective for such year resulting from  
 10 the application of section 1839(a)(3),  
 11 as reduced (if any) under section  
 12 1839(f)(2).

13 “(II) NO APPLICATION TO INDIV-  
 14 IDUALS PARTICIPATING IN MEDICARE  
 15 SAVINGS PROGRAM.—In the case of an  
 16 individual who is enrolled for medical  
 17 assistance under title XIX for medi-  
 18 care cost-sharing described in section  
 19 1905(p)(3)(A)(ii), zero.”.

20 (2) APPLICATION UNDER MEDICARE ADVAN-  
 21 TAGE PROGRAM.—Section 1854(b)(2)(B) of such Act  
 22 (42 U.S.C. 1395w–24(b)(2)(B)), as in effect as of  
 23 January 1, 2006, relating to MA monthly prescrip-  
 24 tion drug beneficiary premium, is amended by in-  
 25 serting after “as adjusted under section 1860D–

1 13(a)(1)(B)” the following: “and section 1860D–  
 2 13(a)(1)(F)”.

3 (3) PAYMENT FROM MEDICARE PRESCRIPTION  
 4 DRUG ACCOUNT.—Section 1860D–16(b) of such Act  
 5 (42 U.S.C. 1395w–116(b)) is amended—

6 (A) in paragraph (1)—

7 (i) by striking “and” at the end of  
 8 subparagraph (C);

9 (ii) by striking the period at the end  
 10 of subparagraph (D) and inserting “;  
 11 and”; and

12 (iii) by adding at the end the fol-  
 13 lowing new subparagraph:

14 “(E) payment under paragraph (5) of pre-  
 15 mium reductions effected under section 1860D–  
 16 13(a)(1)(F).”; and

17 (B) by adding at the end the following new  
 18 paragraph:

19 “(5) PAYMENT FOR COLA PROTECTION PRE-  
 20 MIUM REDUCTIONS.—

21 “(A) IN GENERAL.—In addition to pay-  
 22 ments provided under section 1860D–15 to a  
 23 PDP sponsor or an MA organization, in the  
 24 case of each part D eligible individual who is  
 25 enrolled in a prescription drug plan offered by

such sponsor or an MA–PD plan offered by such organization and who has a premium reduced under section 1860D–13(a)(1)(F), the Secretary shall provide for payment to such sponsor or organization of an amount equivalent to the amount of such premium reduction.

“(B) APPLICATION OF PROVISIONS.—The provisions of subsections (d) and (f) of section 1860D–15 (relating to payment methods and disclosure of information) shall apply to payment under subparagraph (A) in the same manner as they apply to payments under such section.”.

(c) DISREGARD OF PREMIUM REDUCTIONS IN DETERMINING DEDICATED REVENUES UNDER MMA COST CONTAINMENT.—Section 801(c)(3)(D) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173) is amended by adding at the end the following: “Such premiums shall also be determined without regard to any reductions effected under section 1839(f)(2) or 1860D–13(a)(1)(F) of such title.”.

(d) EFFECTIVE DATES.—

(1) PART B PREMIUM.—The amendments made by subsection (a) apply to premiums for months beginning with January 2005.

1           (2) PART D PREMIUM.—The amendments made  
2       by subsection (b) apply to premiums for months be-  
3       ginning with January 2007.

4           (3) MMA PROVISION.—The amendment made  
5       by subsection (c) shall take effect on the date of the  
6       enactment of this Act.

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